



2004 Legislative Priorities

Density Bonuses
Lead Department: Planning

Background:

- What governmental functions are at issue? Granting of density bonuses and second incentives for applicable categories of affordable housing.
- How are these functions performed? City (Housing Commission) enters into agreements with developers that allow higher density than is permitted by applicable zoning and plan designation and/or other deviations from usual zoning and planning rules in exchange for agreement that a certain number of units will be affordable to residents at a certain income level for a set time period.
- Why is legislation required? Recently adopted state law is poorly written and confusing—it is unclear what limitations the City can legally place on overly aggressive requests for density increases or “second incentives” (usually deviations from zoning standards such as parking, height, setback or FAR.)
- How would the proposal permit the City to perform more effectively? The City could more effectively prepare local regulations that will conform to the recently adopted State density bonus law, if the ambiguities listed above

Proposal

- Specify what sections of state law require amendment—Govt. code section 65915
- Provide specific amendment language you seek -- Clearer direction on what limits a city can establish to restrict the amount of density increase and other deviations from zoning standards that must be approved.

- 65915 (d) Add after the first sentence: " The additional concession or incentive proposed by an applicant may include an additional density bonus not to exceed 25%."

65915 (d)(2) and (e)--remove sentences in each of these sections that says "If a court finds that the refusal to grant a requested density bonus, incentive or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit".

65915 (g)(2) change to read:" A density bonus means a density increase of at least 25%, but no greater than 50%, unless a lesser percentage is elected by the applicant"..

65915 (i) This section should be clarified to state under what circumstances the City may require a plan amendment.

Strategy

- List likely supporters—possible supporters are other jurisdictions, League of California Cities, housing advocates, and even developers? (developers usually seek clarity in rules so they can plan accordingly.)
- List likely opponents --?
- List possible Sponsors--?